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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States parties

NICARAGUA

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REPORT BY NICARAGUA ON THE APPLICATION OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

I. General framework

The report on the application of the measures proposed in the Convention on the Elimination of All Forms of Discrimination against Women cannot be submitted without referring to what 44 years of dictatorship have meant for Nicaraguan women and the Nicaraguan people: economic backwardness, lack of social services, lack of means of subsistence (land, work, training etc.), cultural backwardness, violation of the most elementary human rights, and repression of all political activity and claims to rights.

Although this situation fostered discontent and conspiratorial activity among broad sectors of the people aimed at breaking down class distinction, as the history of the Nicaraguan people's struggle well shows, it has also left in the minds of the people a belief in natural inequality between men and women, based on the biological difference.

In the ideology of dictatorship a woman who takes part in socio-political activities is ridiculed and branded as a "tomboy". The image of a woman is reduced to a sexual object or to a wife and mother. The only "feminine" qualities praised are those that turn a woman into someone to look after her children and her husband. Attempts were made, furthermore, to induce women, apart from adopting a passive attitude, to hamper political involvement by their husbands or partners and their children.

This situation, however, was not successful in turning women into passive objects, or even into innocent allies of dictatorship. Every political or military action and every strike was joined each day by a larger number of women who destroyed the imposed ideological patterns until the point was reached where they participated on a mass scale in the war of liberation, which ended in July 1979.

It can be said that female participation in the antidictatorial struggle was the breaking of the first link in the chain which bound the Nicaraguan woman to her reproductive function. It was to some extent a revelation of her ability to exercise the equality which historically she had been denied.

After the victory of the revolution, the Nicaraguan State began a process of social transformation, the policies of which were entirely compatible with the guidelines of the United Nations for the Decade of Women. The historic programme of the FSLN (1961) pointed out in one of its parts that "The Sandinist People's revolution will abolish the odious discrimination that women have endured with respect to men, and will establish economic, political and cultural equality between men and women."

But revolution is not a process that smoothly flows along until its objectives are attained. Only one year after it began it had to face a war of aggression which created a situation abnormal from every point of view compared with any other Member State of the United Nations.

While maintaining diplomatic relations, the Government of the United States of America imposed a commercial, financial and political embargo on Nicaragua; it armed and financed a mercenary army, the main military objectives of which were production centres, social infrastructure and the civil population.

The harshness of the war is such that between 1980 and April 1987 alone there were 40,027 victims, which included persons killed, kidnapped or reported missing. Of these, more than 2,038 were women, 1,996 were children of both sexes, 176 were teachers and 52 were doctors. The most serious impact on the development of the country chiefly takes the form of the following:

(a) The displacement of the rural population towards the towns affects agricultural and stockbreeding production;

(b) The emigration abroad of a certain number of professionals and technicians affects the planning and implementation of development plans; and

(c) Entire generations of young people and professionals who have joined in the defence of the country would, under conditions of peace, be studying, building schools and hospitals, taking part in productive work and participating in the country's development. Furthermore, the actions of counter-revolutionary bands have resulted on an economic level in the destruction of 2,123 dwellings, 62 schools, 31 health establishments, and 14 centres for child development, demolished by bombs.

This damage, added to the destruction of means of transport and transmission lines, amounts to more than 2,821 million dollars in direct losses. 1/

To the economic impact of the military aggression and the effects of the commercial and financial embargo one can add the crisis devolving from the unfair trade relations which are imposed on the poor countries by the developed countries and create a particularly difficult situation in Nicaragua. This has brought about a change in the economic strategy that had been proposed by the Revolutionary State, namely an economic plan of national reconstruction entailing short, medium and long-term development plans and an increase in social programmes.

The State has gone over to planning an economic strategy of survival which basically is characterized by the protection of workers' salaries, stimulation of production and the maintenance of social programmes.

A right as difficult to put into effect in practice as equality and non-discrimination presupposes the attainment of a cultural and ideological level of development, which even the developed countries have not been able to ensure in the full sense. The Revolutionary State, despite the situation described above, has shown its firm intention to tackle the problem and has maintained a line of support for the claims to rights lodged by women.

This government support has been translated into practice through the political opening up that has occurred in the State since the victory; this first leaves room in the State Council, and now in the National Assembly, for all the initiatives which as part of the legal transformation have been submitted by organized women; and second, the FSLN as a political party in the Government has clearly and explicitly defined its position, which is to combat discrimination against women, a fact that reinforces the State policies and the organizational action adopted by women in order to attain this aim. 2/

1/ Report on the Situation regarding Human Rights in Nicaragua.

2/ The FSLN and Women in the Sandanist People's Revolution (8 March 1987).

This has resulted in the consolidation of a broad and dynamic women's movement which has been able to mobilize thousands of women from all social levels in order to take part in the drafting of the Constitution and legislation governing the family, to establish their rights as citizens on a formal basis in the legislation, and to turn the collective discussion of such preliminary drafts into an educational process transforming social awareness of the status of women in society and in the family.

It should be pointed out, however, that the political and legal framework within which Nicaragua is setting about the elimination of discrimination against women, together with the measures that have been adopted to cope with the problem, is the result of a struggle that has liberated women so that they can specify and submit their demands through the movement bringing them together, namely the "Luisa Amanda Espinoza" Association of Nicaraguan Women (AMNLAE). 3/

These demands match reality; the prevalence of a social order based on male and female stereotype roles not only shows up in the functions that are assigned to each sex, but is also among the ideas which now shape the minds of men and women, from where they act as a hindrance in overcoming the discrimination and self-denial.

Although in many sectors in Nicaragua there has been a break in the generic division of labour on the part of women, the same has not happened in the case of men; the outcome is that women who have outside employment continue to face a double or triple day's work when, in addition to their paid job, they assume political, communal or trade union responsibilities.

The strategy of the struggle of Nicaraguan women includes the aim of broadening the present level of awareness of their generic condition, since at the present time many women are not even conscious of discrimination inasmuch as they endure it as a manifestation of their fate, and are much less in a position to make use of the mechanisms and resources which in certain cases, by being watered down through inclusion in the organizations established for the whole population, show ideological blindness, natural in the persons making them up.

So the long and short of it is that the official mechanism is not enough.

Aware of this situation, in 1982 the Government set up the Government Office for Women, which represents a specialized government agency and a level for co-ordination and technical support intended for formulating, strengthening and spreading the Government's overall policy as a function of the objectives of the Nicaraguan Women's Movement which aim at incorporation of women into the process of transformation and economic, social and political development of the country. 4/

Furthermore, in order to deal with the legal discrimination, whether based on the letter of obsolete laws, whether old or new, or on the ideology of those enforcing them, AMNLAE has set up three law offices for women in different towns of the country.

These, in the same way as the Government Office for Women and the same national and regional branches of AMNLAE, carry out a permanent, although still inadequate, job of propaganda and education in order to promote awareness on the part of women of the rights affecting them as social individuals.

3/ AMNLAE Today.

4/ Objectives and functions of the Government Office for Women.

To ensure the exercise and enjoyment of all the fundamental rights and freedoms through promotion of full development and advancement for women, as required by the Convention, entails not only the political and ideological development of women, nor only changes in law, but rather a rise in educational standards, accessibility to health programmes, proper housing, adequate income, etc., both for women and for men.

In Nicaragua this requirement of the Convention is one of the objectives of the revolution and all efforts are directed towards its success, including military defence of the country and political defence of it at international forums. As Dr. Ileana Rodríguez has said: "If the attainment of peace is dependent on emancipation, then it is in that way that we shall be successful in effectively replanning a change in the industrial, ideological and cultural models ...". 5/

The provisions of the Convention, in so far as they coincide with the principles established in the Constitution, can be invoked at any administrative or legal instance. However, the invocation is not coercive inasmuch that it is not supported by legal procedures based on such principles; hence the need for the legal changes already initiated.

PART I

In order to make an analysis of the articles referring to amendments of laws and legal status in the Convention, it has to be noted that the principal legal and social changes that have affected the status of women in Nicaragua stem from the political will of the FSLN, already expressed in Point VI of the Historic Programme of the FSLN (1961).

It is likewise stated in its Proclamation, 6/ one of the parts of which points out:

"The struggle for women's specific claim to rights is thus for the FSLN a battle which, even in the difficult conditions in which we live, we must continue to fight, vigorously combating the discriminatory laws and policies, the subordinate position of women in society and in the family, paternal irresponsibility, the physical and moral illtreatment and the cult of masculine superiority - these are all obstacles and attitudes which must be overcome by men and women." It is for this reason that the basic statute, the legal foundation of the structure of the Sandanist People's Revolution, states in Article 7 of the section on Basic Principles: "There shall be established the unconditional equality of all Nicaraguans".

This served as a background for the drafting of the Statute on Rights and Guarantees, which expressly states in Article 3: "All persons are equal before the law and have a right to equal protection. <u>There shall be no discrimination for reasons</u> of birth, race, colour, <u>sex</u>, language, religion, opinions, origin, economic status or any other social condition"; but it not only declares equality and non-discrimination - the same article recognizes the obligation of the State to remove "<u>by all means within its power</u>" the obstacles in the way of the equality of Nicaraguans.

5/ Essay: Obstacles to the promotion and application of the "Convention on the Elimination of All Forms of Discrimination against Women: the case of Nicaragua", p. 8 (February 1987).

6/ The FSLN and Women in the Sandanist People's Revolution.

Within this legal context Nicaragua signed the Convention on the Elimination of All Forms of Discrimination Against Women, although the changes that have occurred within the political, legal, social and cultural framework for women in Nicaragua are still not enough.

In examining and considering in depth the contents of this Convention we are certain that all future transformations which refer to the status of women will be based on the contents of it, to which we have to assign the place that it should occupy as a set of standards of international law that the Signatory State should respect and implement.

We will examine the Articles in the following manner: Articles 1, 2, 3 and 15, which define and deal with fundamental points regarding the concept of discrimination against women will be taken together since they are closely related.

Until quite recently it was usual to believe that in Nicaragua women were not discriminated against, since from the year 1953 onwards the Somozan régime "granted" women the right to vote.

However, the incorporation of women into the political struggle and the victory of the Sandanist People's Revolution enabled many women to identify the source of their oppression, which has logically given rise to extensive discussion of the subject.

Since its beginning, women organized into the Association of Women in Face of National Problems (AMPRONAC) have had a specific field of combat, which basically covers:

1. Legal equality;

2. Equal pay for equal work;

3. Non-exploitation of a woman's body for commercial advertising, and condemnation of prostitution.

A month after the victory these aims were reproduced in the Statute of Rights and Guarantees of Nicaraguans and in the Law on Means of Communication, both of which were adopted in the first 30 days following the revolutionary victory.

The victory of the Sandanist People's Revolution saw the beginning of plans for drastic and, above all, radical changes in the behaviour patterns of Nicaraguan men and women; traditional ideas and concepts were shaken and uprooted and many women broke with the traditional model of a woman as a mother confined to the domestic environment "in private".

One of the first reflections was to question certain situations which stood out in terms of the extent of inequality of women in relation to their partners or as regards their relations with their children.

This is why one of the first debates that arose in Nicaragua concerned the Law on Paternal Authority (1982); in this discussion the extent of submission of the woman as a wife and mother was called into question and it proved possible to abolish this discriminatory law and establish equal relations between the couple and between them and their children.

Later on women started another debate on the payment of alimony for the children.

What is interesting about both discussions is that the polemic concerned housework and that it was possible for both laws to reflect as a standard the obligation to share the housework, the upbringing of the children and the education of them by both parents.

Nevertheless, it can be observed that so far the claims of women have gone no further than statements on the role of the woman as a parent and, of course, as a mother, it being assumed that only the traditional roles assigned to her are correct.

In 1985 people became very much more aware and questioned the traditional role, and the constitutional proposals of AMNLAE were the ones which stated clearly the position of Nicaraguan women and sought to eliminate, although only formally, discrimination against them and their subordinate role.

It is also important to point out that women were able to express their views on their rights publicly at constitutional "cabildo" 7/ meetings, which resulted in articles in the Constitution reflecting some of the claims lodged by women.

In broad outline, it can be observed how the women in Nicaragua have been gradually establishing a legal practice that is nowadays reflected in the Republic's new Constitution. 8/

We believe that there has been weakness in the promotion of the Convention's provisions, since the transformations for the benefit of women in the legal field have resulted from the revolutionary process that has been going on in Nicaragua since 1979, and the political will of the FSLN and of the Nicaraguan women, who have been able to claim their rights on the basis of experience in discrimination and not through knowledge of the Convention.

Theoretically, however, the provisions of the Convention can be claimed before any court or authority, but in practice there has still not been so far any application of these standards.

In Nicaragua there is both a political and popular will, generally speaking, to continue eliminating the obstacles in the way of the equality between Nicaraguans.

This principle (equality) and the principles aimed at guaranteeing equality between persons and non-discrimination before the law and before society, as well as the full exercise of all the rights that women possess as human beings and which are guaranteed in the Declaration of Human Rights are enshrined constitutionally in different articles: for example, Article 27 sets forth, as an individual right, equality before the law and non-discrimination "for reason of birth, nationality, political creed, race, sex, language, religion, opinion, origin, economic position or social status"; Article 48 states, as a political right, that there shall be "unconditional equality" between men and women; and in the family relations Article 73 of the Constitution promulgates the absolute equality of "rights and responsibilities between men and women".

7/ Forms of popular participation used for the consultation during the drafting of the Constitution of the Nicaraguan Republic.

8/ Constitution of the Nicaraguan Republic (9 January 1987).

It is likewise important to point out that as part of the economic rights there is a constitutional provision for the promotion of the "voluntary association of peasants in agricultural co-operatives, without discrimination of sex" - Article 109.

Of special relevance for Nicaraguan women and which provided a framework for the constitutional discussion, was the deliberation and approval of the Law on Relations between Mothers, Fathers and Children. 9/ This made for a change in the concept of the family in the Civil Code (1904), which assigned to a family an authoritarian, hierarchic and patriarchal role, where the "head of the house is the man and the woman stands in for him".

Within the new concepts of this recent law we can point out that, starting from the preamble, it states that it is a fundamental principle of the Sandanist People's Revolution to eliminate all forms of oppression and discrimination.

The Sandanist People's Revolution opens the door to eliminating the conception of a woman as an object and also recognizes that the previous law - the Civil Code of 1904 - is an obstacle in the way of equality as far as women are concerned; against this background the new family concept is based on egalitarian relations between men and women and, therefore, between them and their children, and brings out the responsibility of the parents to stimulate in the children their ability to take decisions and their sense of responsibility. 10/

Even so, in the area of legislation and in constitutional matters, some of the laws show great progress as far as women are concerned.

There is still an obsolete Civil Code which, as we have seen, is known to be an obstacle. Nevertheless, it has only been partly reformed and the rest of it is still in force, which is in direct contradiction to the political, social, cultural and economic reality of Nicaragua.

The reality is that in practice women's rights are difficult to specify and define; equality and non-discrimination presuppose a level of cultural and ideological development which not even the developed countries have managed to attain; but we feel that the ideological transformations are proceeding bit by bit.

The change in the socio-cultural patterns that condition different social behaviour for men and women is determining by means of the changes that it generates a revolutionary process in education, the mass media and other ideological State systems, though also by means of the changes which it has brought about in the economic and political field to enable women to take part in public life, and therefore to stimulate the changes necessary in this sphere of social life where the stereotypes show resistance because of the benefits they gain, and privately counteract the efforts that the State deploys to eliminate the inequality of women.

Viewing the problem in this manner, we have dealt jointly with Articles 5, 7, 8, 10, 11 and 14.

9/ Obstacles to the promotion and application of the "Convention on the Elimination of All Forms of Discrimination against Women: the case of Nicaragua", pp. 32, 36.

10/ Obstacles to the promotion and application of the "Convention on the Elimination of All Forms of Discrimination against Women: the case of Nicaragua", pp. 41, 42.

PART II

In Nicaragua the legal advances fall within a general framework which is reproduced in the Constitution, but as regards specific legal changes no progress is being made; for example the Penal Code still fails to consider the ill-treatment of women as an offence.

Furthermore, in Article 129 the Penal Code mentions fathers or brothers who murder those who seduce their underage daughters and receive a lighter sentence than for homicide, this right being granted to them as "family men". The same treatment is contained in Article 130 for the husband who kills his wife and her partner in crime.

Among the discriminatory provisions of the Penal Code specific mention should be made of the existence of a law punishing abortion (Article 162); the part dealing with abortion for medical reasons imposes the consent of her husband or next of kin as a condition.

Further, the Penal Code considers violation, rape and abduction as crimes of a "private nature", which results in the impunity of the perpetrators; furthermore, it is a sexist and class-conscious code, which, for example, qualifies certain women as "good women", implying that the others must be "bad women".

Article 209 affronts the dignity of women by imposing a fine on the perpetrator of crimes of a private nature, which makes it look as though the dignity of women has a price and is an object of commerce.

Among the articles of the Penal Code special mention should be made of what they say about adultery and cohabitation; Articles 211 to 210 are the most obvious expression of a sexist code since the only person who commits adultery is the woman and the circumstances surrounding the crime of adultery are very different from those of cohabitation.

There is also a law which punishes a woman who pretends to be pregnant or to have given birth so that she has a right to the hypothetical child; this law is effective and necessary in a class-conscious code since the point of it is to protect the inheritance.

Consequently, it is both appropriate and necessary to make a thorough examination of the provisions of the criminal law in force that are in contradiction to the Convention if the latter is to be made effective.

Since the victory of the revolution in our country, people have been vigilant and on their guard in order not to commit acts involving discrimination against women.

As part of the implementation of the equality of Nicaraguans, legal seminars have been given (1982-1983) for members of the courts of justice and authorities, such as attorneys and police officials, on enactment of the new legal provisions.

In practice, however, many cases involving women's rights (for example, cases of rape) are treated according to the Code and are fraught with male ideology.

Historically speaking, the greatest influence on the problems of women in Nicaragua has been the question of their rights in relations between the couple and therefore between them and their children. This is the reason why the first thing that was amended was the Law of Paternal Authority, as already mentioned, and later on the Law on Alimony.

The establishment of an administrative organization (Directorate for Family Guidance and Protection) to solve this type of problem is an indication of the changes which are occurring in practice in Nicaragua, since the communal courts used not to respond to problems of that kind. 11/

1986 saw a turn in the claims for women's rights in the form of discussions by women in the open "cabildos" during the consultations on the drafting of the Constitution. This showed a high level of development and awareness among Nicaraguan women as a whole, and resulted in the expression of clear ideas dealing with topics that used to be taboo (abortion, ill-treatment and prostitution) and deviating from the traditional manner of tackling the position of women, seen solely from the woman-mother viewpoint.

In the cabildos women expressed themselves in favour of legalizing abortion, and legislating with regard to ill-treatment, the right to land, the right to technical and vocational education, and so on. 12/

Of particular importance was the work performed by the Women's Legal Office, 13/ which is working for attainment of the legal equality for women, and in its working programmes has managed to take action during this very important period.

Article 9 of the Convention corresponds to Article 2 of the Law on Nationality (November 1981), as well as to Article 6 of the same law, which stipulates that marriage and the dissolution of it do not affect the nationality of the spouses.

Likewise, Article 7 stipulates that Nicaraguans married to foreigners shall retain their nationality, and Article 4 of the same law affirms the equality of all nationals before the law.

Article 16 of the Convention speaks of elimination of discrimination against women only in all matters relating to marriage and family relations; it should be noted in that connection:

(1) First of all, everything relating to the family and to marriage is an important part in the Nicaraguan Constitution, being a great achievement for women in constitutional matters.

Women played a major part in drafting Title IV of Chapter IV in Articles 70-79 of the Constitution and produced articles consistent with actual conditions in Nicaragua. They incorporated and elevated to constitutional level the principles enshrined in the Law on Relations between Mother, Father and Children.

It was also possible to make a change in the conception of the family and marriage, since it used only to be the children born within the marriage who were eligible for all rights; this made for discrimination by reason of birth. The Constitution recognizes the relations between a couple who are not joined in

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11/ Obstacles to the promotion and application of the "Convention on the Elimination of All Forms of Discrimination against Women: the case of Nicaragua", p. 37.

12/ See document: Exposé of the "Luisa Amanda Espinoza" Association of Nicaraguan Women before the Special Constitutional Committee of the National Assembly (11 February 1986).

13/ Body set up by AMNLAE (1983) to look into the legal problems affecting women.

matrimony, which is a reality in Nicaragua and applies to more than 50 per cent of couples; it is what we call a "union in fact", hence there is a constitutional guarantee for all the relations and actions originating from it.

Secondly, it raises to constitutional level the principles contained in the Law on Relations between Mother, Father and Children, which does away with the traditional image of the man as head of the family and the woman as a stand-in, which shaped the hierarchical and authoritarian family of the past, and replaces it by a family in which the man and woman base their relationship (Article 73) "on respect, solidarity and absolute equality of rights and responsibilities", thereby also defining what could be the purpose of matrimony under a new legislation; this in conjunction with the provisions of the Regulatory Law by which the members of the family share the housework and take part in the family decision-making, tackles on a legal basis the most fundamental aspects and purposes of what is to be the new Nicaraguan family.

(a) Since the revolutionary victory, with its promulgation of the Statute of Rights and Guarantees, and now with the new Constitution, we have eliminated the former concept of matrimony as a contract and assigned to marriage a voluntary nature; this has meant as a consequence that the divorce procedure which established that a marriage could be dissolved for given reasons (Civil Code 1904) has been made redundant, since Article 72 of the Constitution establishes that marriage can be dissolved unilaterally; this reaffirms the will of both of the spouses to unite or separate.

(b) The Law on Relations between Mother, Father and Children and the new Constitution stipulate the equality of rights and responsibilities of the man and woman as progenitors in matters relating to their children, and the priority of their interests. 14/

(c) It is interesting to note that in the constitutional amendments proposed by AMNLAE one finds the principle known as "right to motherhood", which puts forward that the social value of maternity should be recognized constitutionally, together with the genuine exercise of the right of women to decide, in a responsible and free manner, how many children they wish to have and at what point in life they wish to have them, althougn legally there is nothing fixed. 15/

(d) Men and women have equal rights with regard to the care, upbringing and education of their children, the representation of them and the administration of their property. The same thing applies to adopted children, the complete development of the minor being the sole interest. 16/

With regard to adoption, under the previous law an unmarried woman was not permitted to adopt a child. Now the new law permits unmarried men and women to adopt children. It should be pointed out that in order to hamper "illicit trafficking in children" (which existed in Nicaragua before the victory), Nicaraguan minors can be adopted nowadays only by foreigners who are permanent residents of the country and ready to stay there until the adoptee comes of age as a form of guarantee and way of ensuring the minor's proper education.

14/ Political Constitution of Nicaragua, Arts. 73, 75 and 78 of the Code and Law regulating relations between Mother, Father and Children.

15/ See Mother-Child Programme, Ministry of Health.

16/ Obstacles to the promotion and application of the "Convention on the Elimination of All Forms of Discrimination against Women: case of Nicaragua", p. 35.

(e) It is customary in Nicaragua for a married woman to adopt the husband's name, using it as the second name with the preposition "de" in front; but legally speaking, there is no provision governing the use of names; since the victory there has been a tendency for women to retain their maiden names.

Although there is certainly freedom in the choice of a vocation or job, both for men and women, there are still economic and social factors which stand in the way of a free decision, especially on the part of women.

It is important to point out here that in the Civil Code (1904) there is a provision still in force in Article 152 that lays down the obligation of the woman to follow her husband "wherever he goes to live", which is in open contradiction to Article 31 of the Constitution, which guarantees that every Nicaraguan has the right to establish residence in any part of the country. Since this is a discriminatory law, it is therefore one that is not in force in actual practice, i.e. it is not enforced, but it has social effects which, furthermore, mean that on many occasions women cannot develop themselves in any field by virtue of the family contradictions or conflicts surrounding them.

(f) Under our legislation each of the spouses is the possessor and may freely dispose of the property that they had when contracting marriage (separation of property, Article 53); furthermore, they both have complete freedom to buy, sell, manage and enjoy any piece of property, either for payment or free of charge. They may not dispose of the property of their children but are obliged to look after it and keep it and it can only be expropriated with legal authorization and with the consent of both parents; pursuant to the Civil Code (1904) this could only be done by the father, but with the Regulatory Law on Relations between Mother, Father and Children (Article 4) the consent of both parents is now necessary, since it was common for the father to sell his children's property, thereby leaving them without any financial guarantee.

Article 92 of the Code (1904) provides that betrothal imposes no obligation. The same Code stipulates that the age of consent for marriage was 15 years for men and 14 for women (Article 101) and that it is obligatory to register at the registry office (Article 129).

It is a matter of very great importance to conclude this report by stating the changes and progress that have occurred in the position of women in such areas as health, education and labour; let us mention the principal aspects involved:

HEALTH

"The state of health expresses at any moment in the history of a society the level attained in physical, mental and social development of the individual and of social groups; for this reason it shows a set level and a capacity for participation by them in the different economic, social and political processes occurring in that society." 17/

Starting from 19 July 1979, on account of the precarious health conditions experienced by our people, marked by a high rate of infant mortality (95-200 per thousand children born alive), and a reduced life expectancy (56 years), 18/ which had a fundamental impact on the working class, it became necessary to bring about a transformation in the matter of health by setting up the Single Health System (SNUS) by means of Decree Law 35 dated 8 August 1979; the objective set is to

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17/ Health Plan 1987. Nicaraguan Ministry of Health.

18/ Ibid.

raise the people's standard of health and at the same time to put into effect, by this Decree, the recommendations of the World Health Organization (WHO) and the Pan American Health Organization (PAHO); this Law translates into reality the intention expressed in the Government's first proclamation.

Health indicators for Nicaragua 1977-1984

Indicator		1977	1984
1.	Life expectancy at birth (years)	56.3	59.8
2.	Mortality rate (per 1000 inhabitants)	11.6	9.7
3.	Infant mortality rate (per 1000 born alive)	93.0	76.4
4.	Birth rate (per 1000 inhabitants)	45.6	44.2

Source: Nicaragua: Population Estimates and Projections: 1950-2025. Part F-NIC1. November 1983. INEC-CELADE.

During the last seven years the revolution has gradually managed to reverse the above-described situation by means of:

(a) Agrarian reform, social policy, employment and wages policy and systematization of supplies, which aim at a more equitable redistribution of income.

(b) Development of regionalization and the orientation of important economic and social projects towards the centre of the country and the Atlantic coast tend to reduce territorial disproportion.

(c) Literacy and adult education, the extension and transformation of the educational system, the broadening of social security; the progress made in the protection and care of infants (CDI, SIR etc.), sewage disposal and a moderate improvement in the drinking water supply are factors which when put together have brought about positive changes in the living conditions of broad strata of the population.

With the creation of the Single Health System, under the Ministry of Health, there is guarantee of health protection in the case of sickness and maternity for the entire population.

The medical services in the hospitals and health centres are completely free of charge. There are in the country a number of hospitals which specialize in the health of women and children: "Fernando Velez Paiz" Hospital (mother and child); "Manuel de Jesús Rivera" Hospital (chidren's hospital); and the "Bertha Calderón" Hospital (for women).

Considering that despite the progress achieved in the extension of health services and in reducing the sickness and mortality rates for certain illnesses against which there can be vaccination and also for malaria, the sickness and mortality table still shows a prevalence of transmitted deficiency diseases, as a symptom of the inherited conditions of underdevelopment which basically affect the most susceptible population groups, such as children and women, the prevalence of them being found among the working class, where they affect its welfare and

19/ Health Plan 1987. Nicaraguan Ministry of Health.

involvement in the development of the country; as a measure helping to correct this situation we are undertaking the following:

To give priority attention to:

(a) Mother and child:

Fundamental basis for the future of the revolution and group at greatest risk in the incidence of disease.

(b) Workers:

Fundamental individuals for the economic development and construction of the new society; for this purpose efforts will be made to:

1. Give priority to preventive action at the level of basic care, with emphasis on consultations and preventive monitoring, hygienic-epidemiological activities and health education.

2. Guarantee acceptance and good treatment by persons in the service.

The following are defined as strategies for achieving the above:

- Maximum priority to the development and strengthening of the institutional and systematic care services guaranteeing the extension of coverage, early detection and adequate follow-up, thereby improving the quality of the services.

- Intensification of the above-mentioned activities through action called for by the situation, involving the mass mobilization of the community's resources, thereby encouraging the People's Health Days.

As part of the specialized care for women, we can point out that:

Laws have been passed on preventive health. In the specific case of women there has been issued Decree 912 (December 1981) on the Law on Promotion of the Nursing Mother, the aim of which is to protect the health of the child and to avoid malnutrition.

This law comes under the International Code on Marketing Substitutes for Mother's Milk. It is forbidden to advertise milk products in the mass media.

There has been an increase in the coverage of consultations for the care of women's diseases and sexually transmitted diseases. In this regard a decision has been taken to train the entire population, more especially fecund women, in the various factors underlying the reproduction policy in the mother-child area, and which are based on "reproductive risk". It is intended to ensure free choice and responsibility in the decision on the number of children that it is wished to have and/or that it is possible to have.

During the period 1981-1983 the activities listed below were carried out:

Care of pregnant women, which has an effect on subsequent care of the mother and attention to the child, especially the nursing mother, and monitoring of the growth and development of the healthy child.

Pre-natal testing

Activities	Years			Differences
	1981	1982	1983	%
Women checked	82 599	133 132	146 694	177.5
No. of pre-natal tests	137 620	244 420	306 654	222.8

Source: Nicaraguan Ministry of Health.

In addition to the increase in the total number of pregnant women checked and the pre-natal tests it is important to point out that a pregnant woman is cared for at earlier stages of pregnancy. In effect, whereas 27 per cent of the pregnant women were tested during the first three months of pregnancy in 1981, in 1983 the figure for this stage of pregnancy was 32 per cent. 20/

Childbirth in institutions

Indicators	1977	1980	1981	1982	1983
No. of childbirths in institutions	41 947	51 559	55 627	58 006	61 192
Percentage growth		+ 22.9	+ 32.6	+ 38.3	+ 45.8
Growth in absolute terms		9 612	+13 680	+16 059	+19 245

Source: MINSA.

Although it is certain that childbirth in an institution occurs in a smaller proportion than the population growth, with only 45 per cent of the children being born in an institution, for the remaining 55 per cent looked after at home the figure is 77.7 per cent, with the care being given by midwives; as a result of this in 1982 we began training midwives as the most viable alternative and one which fits in with the situation in our country. 21/

It should be pointed out that the training envisaged for the midwives is regular and complete, considering that their duties are not confined to care at childbirth, but to other types of consultations for the community. This programme has made it possible to reduce deaths in childbirth since the midwife is in a position to have cases presenting complications hospitalized.

Post-natal monitoring is another function in which the midwives take some part, the health centres being the ones where this is mainly done.

At the national level, post-natal monitoring shows a steady increase; there were 6,631 tests for this purpose in 1981, and 46,972 in 1985. However, this growth does not match the number of pregnant women cared for under the system, either for pre-natal cases or for childbirth. The number of persons receiving post-natal care represents 32 per cent of the cases of childbirth in institutions. 22/

20/ 1985 annual report. Nicaraguan Ministry of Health.

21/ Health Plan 1987. Nicaraguan Ministry of Health.

22/ Ibid.

Indicators	Years 1981	1982	1983	Differences %
Vaginal cytology	6 687	27 950	20 782	210
Breast examination	24 191	69 749	121 104	398

Source: Ministry of Health.

The reason for the decline in the number of vaginal cytology examinations carried out in 1981, as compared with 1983, results from the scarcity of materials and laboratory reagents during that year, as a consequence of the economic crisis and state of aggression which the country was going through.

Breast examination for the early detection of breast cancer has been gradually increasing. The figures show that in 1983 activities undertaken for this purpose were 400 per cent greater than for the year 1981.

Another major programme worth mentioning is the study of human fertility and family planning, which aims at giving guidance in the use of methods of birth control and studying the problem of infertility; this same programme is based on the expression of free choice by the couple on the number of children they can or want to have.

Nevertheless, it is important to note that there is another fertility characteristic in Nicaragua, namely the high level of fertility in women under 20 years of age (21 per cent of all the mothers) who are also at high obstetric risk, as shown by the mortality rate for mothers of this age; it is higher than one might expect for a general level similar to that of Nicaragua. 23/

For this purpose sexual education campaigns at different levels are being put into effect via schools, health centres and with the support of popular organizations.

EDUCATION

"Education is aimed at full and complete instruction of Nicaraguans: to provide them with critical, scientific and humanistic awareness; to develop their personality and the sense of dignity and to train them to undertake tasks of mutual interest demanded by the progress of the nation; consequently, education is a fundamental factor for the transformation and development of the individual and of society." 24/

An important factor in the history of Nicaraguan education is the national crusade for literacy, which was one of the most ambitious projects of the revolution - a real cultural epic that enabled us to reduce the illiteracy rate from 50.3 per cent to 12.9 per cent for a teachable population aged 10 years or more.

We had the participation of 100,000 teachers of literacy, of whom 60 per cent were women; for five months they devoted themselves to the arduous task of teaching 406,056 persons to read and write, of whom 195,687 were women, this figure representing 48 per cent of the total who were made literate.

23/ Health Plan 1987. Nicaraguan Ministry of Health.

24/ Article 116 of the Political Constitution of Nicaragua.

Literacy in other languages (Miskito, Sumo and Creole English) is another of the major achievements of the revolution, with 12,664 persons originating from the Atlantic Coast being taught to read and write; this has made it possible to reduce the illiteracy rate even further - to 12 per cent.

There has been established an adult education programme as a second stage in the great national literacy crusade; this adult education programme has been drafted by the National Council for Adult Education, which is the highest level of co-ordination and direct management of the popular organizations implementating this programme, by means of which they take part in the discussion and application of the general adult education policy.

However, we consider that the struggle against illiteracy and the promotion of adult education are possible only when there is a consistent government policy and mass popular involvement - conditions which are closely linked to the existence of a true revolutionary process.

Beginning in 1981, once the National Council for Education had been set up, with the participation of different social sectors (women's, communal and trade union organizations; political parties, the church and so forth) for the purpose of determining the aims, objectives and principles of the new education, we began the transformation of school programmes and textbooks.

Among these transformations was revision of the sexual stereotypes so as to change the image of the woman in the school textbooks as a help in eliminating the traditional division of work in terms of sexes.

In 1980, the Ministry of Education drew up a school programme which provided for the formation of interest clubs. These covered the performance of activities related to technical and vocational careers of national interest, without discrimination of sex.

There is no system of refresher courses to retrain women who interrupted their education, training or professional life, so that they can be reintegrated into the labour market; however, women who abandoned their studies can take them up again at any level at which they were interrupted, thereby enabling them to make use of the educational gap that exists.

Nevertheless, there is still a tendency among young women, and it is more accentuated among adult women, towards training in the traditional careers for women.

We have managed, however, to break with this custom by means of what we call the "feminization of manpower" in different areas of production, which is due to the displacement of male manpower for defence of the country. This has necessarily resulted in women occupying non-traditional jobs and the training of them in those areas.

In this connection the Government has adopted policies and special measures to improve the access of women to education and technical and vocational training. By extending the coverage of instruction, and creating new educational centres in urban and rural areas it has established for this purpose technical training programmes with timetables providing opportunities for women who work and/or have children.

Some higher and university technical training centres are establishing a basis for co-operation with popular organizations, including promotion of the training of women in non-traditional areas, with the creation of a scholarship system and other arrangements for support.

Below we will mention some data regarding the percentage of enrolment in the primary, adult and secondary education programmes, which, taken together, represent 88.97 per cent of the overall enrolment and have most weight in that sense; primary education is in the forefront and represents 62.41 per cent, adult and secondary education representing 13.38 per cent. The weight of each of the other programmes in descending order is as follows: pre-school education 8.03 per cent; normal education 1.18 per cent; commercial education 1.09 per cent; industrial education 0.33 per cent; special education 0.23 per cent and agricultural education 0.17 per cent.

Of the total number of enrolments men account for 46.36 per cent and women 53.64 per cent, thereby indicating that women take a greater part in education than men. 25/

LABOUR

When dealing with this aspect of the matter we have to point out, in historical terms, the participation by women in the PEA, which has gone through an evolutionary process corresponding to the general trend in the more backward countries of our region. For example, by 1950 women represented 14 per cent, and almost 30 years later (1977) they constituted only 29 per cent. 26/

As can be seen from the table, participation by women in the urban PEA showed high rates which have kept up a steady rate of increase.

Structure of the participation by women in the PEA by branch of activity

Branch of activity	1950	1963	1971	1977	1983
Total PEA	26.9	34.5	35	39.9	42
Manufacturing industry	27	29	29	36	37
Wholesale and retail commerce	36	49	50	58	63
Communal, social and personal services	51	62	47	53	51

Source: National Population Censuses for 1950, 1963 and 1971: Urban Home Survey, 1983.

While mentioning the work of Pérez, Alemán and Siu, we can say that the growth of the third sector is clearly influenced by the changes due to the revolution, but especially by the state of war. It conditions this growth in terms of the different extent of access by men and women to production activities.

Although it is certain that our legislation provides for non-discrimination against women with regard to access to employment, the right to equal pay for equal work, the right to social security, and so on, there are still employers, both men and women, who limit the participation of women in certain types of employment.

25/ Information bulletin on Initial Enrolment for 1986. General Planning Division, Ministry of Education.

26/ Paola Pérez and Ivonne Siu: "Women and the Nicaraguan Economy: Changes and Challenges".

One of the successes achieved by Nicaraguan women after the victory of the revolution was the law setting forth the principle of "equal pay for equal work", thereby eliminating the discriminatory treatment that involved a different salary according to sex. In practice, however, this principle comes up against difficulties and does not guarantee that the average woman's salary is equal to that of a man, since there is still professional segregation. 27/

Likewise, in the Labour Code in force women are protected and it is stipulated that "women may not be employed for underground mining work or for tasks described as beyond their strength or hazardous for the physical or moral condition of their sex".

Even though there are still obsolete laws in the present Labour Code, there have been reforms and new laws have been adopted which enable women to participate in work to an increasing extent both qualitatively and quantitatively.

In a process of revolutionary social transformation for the benefit of the working classes, as is the case today in Nicaragua, equality between the sexes has been envisaged as a necessary component for social transformation.

In the Law on Co-operatives and their regulation it is stated explicitly that the production co-operatives shall promote the full integration of women into production work, incorporating them as members working under the same conditions as men and ensuring, furthermore, that all members of the co-operatives, both men and women, have the same rights and duties.

In this way there is a legal basis for redefining the social position of women in the country and the legal prerequisites for their incorporation into the new social relationships for production on the land.

The Sandanist Agrarian Reform Law is the first one in Latin America to recognize women as individuals and direct beneficiaries of the agrarian policies, irrespective of their role in the family, as a result of which wives and daughters can also be members of co-operatives; furthermore, it refers explicitly to women as members and does not stipulate that they should be heads of families or have adult sons in order to gain the benefits of the agrarian reform. 28/

It is not possible to deal with all aspects of the matter - both those relating to benefits and those which still involve discrimination against women - in this report. In drafting it our intention was to deal critically and objectively with the position of Nicaraguan women and how they stand before the law, first and foremost in face of a reality which still harbours prejudice and the values of the past which are deeply engrained in our society. It is important to view the entire situation within the context of the specific reality that Nicaragua is experiencing, with its level of backwardness and underdevelopment, which, added to the state of war financed by the Government of the United States of America, makes it every day more difficult for us to achieve our country's socio-economic development plans. Hence the restoration of peace is essential in creating a

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27/ Pérez, Martinez and Windmaier: The women's labour force in the textile and clothing branch, segregation, wages and rotation.

28/ Revolution and women in the countryside: the impact of the Sandanist Agrarian Reform on the subordination of rural women. Association of Country Labourers (ATC) (1985).

favourable situation for achieving such development. It is for this reason that the main objective of Nicaraguan women is defence of the motherland, a guarantee for creating a propitious climate in which to attain complete equality and emancipation.

As is clearly expressed in the Proclamation of the Sandanist Front for National Liberation (FSLN): "The solution to the specific problems of women, the struggle against discriminatory political ideas, the development and economic-social conditions assuring for women a real equality of opportunity are questions that do not concern solely women, but the whole of society. It is therefore up to society as a whole to struggle for the final overcoming of those problems in accordance with the principles that have been enshrined in the new Constitution of the Republic." 29/

29/ The FSLN and Women in the Sandanist People's Revolution.